

NOT FOR PUBLICATION

FILED

STATES COURT OF APPEALS

JUL 14 2005

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

RANCHERS CATTLEMEN ACTION
LEGAL FUND UNITED
STOCKGROWERS OF AMERICA,

Plaintiff - Appellee,

v.

UNITED STATES DEPARTMENT OF
AGRICULTURE, Animal and Plant Health
Inspection Service; MIKE JOHANNNS, in
his capacity as the Secretary of
Agriculture,

Defendants - Appellants.

No. 05-35264

DC No. CV 05-006 RFC
D. Mont.

ORDER

Before: TASHIMA, PAEZ, and CALLAHAN, Circuit Judges.

The court, after consideration of the briefs of the parties and the various *amici curiae*, and oral argument, has determined that the order of the United States District Court for the District of Montana of March 5, 2005, granting a preliminary injunction enjoining the enforcement of a final rule issued by the Animal and Plant Health Inspection Service, United States Department of Agriculture, published on January 4, 2005, entitled “Bovine Spongiform Encephalopathy, Minimal Risk

Regions and Importation of Commodities; Final Rule and Notice” (the “Preliminary Injunction Order”), 70 Fed. Reg. 460, must be reversed.

It is therefore **ORDERED:**

1. Pursuant to Fed. R. App. P. 8(a), the court *sua sponte* hereby stays the Preliminary Injunction Order, effective immediately, pending the final resolution of this appeal.

2. An opinion setting forth the reasons for the court’s reversal of the Preliminary Injunction Order shall be issued expeditiously and in due course.